

Application No. 10/785,547
Amendment dated March 22, 2006
Reply to Final Office Action of December 22, 2005

REMARKS/ARGUMENTS

Applicants have reviewed and considered the Non-Final Office Action mailed on December 22, 2005, and the references cited therewith.

Claims 1, 14, 21, and 22 are amended, no claims are canceled, and no claims are added; as a result, claims 1-23 are now pending in this application.

Claim Objections

Claim 14 is objected to because of the following informalities: "to" should be entered after "system". The appropriate correction has been made.

§102 Rejection of the Claims

Claims 1, 14, 15, and 22 were rejected under 35 USC §102(b) as being anticipated by Kano et al. (U.S. Patent No. 5,832,919).

The Applicants have reviewed the Office action mailed 12/22/05 and the references cited therewith.

Independent claim 1

At the outset, Applicants would like to thank the Examiner for his helpful and courteous assistance during the Examiner interview on December 5, 2005. During the interview, the Applicants and the Examiner agreed to amend claim 1 to incorporate allowable subject matter. Specifically, independent claim 1 was indicated to be allowable if it were amended to include the following claim language (the air tent sized to cover a single patient). The present Office action rejects independent claim 1 upon new grounds in view of the above included claim language (i.e., the air tent sized to cover a single patient). The rejection fell under §102(b) as being anticipated by Kano et al.

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The Applicants respectfully traverse the rejection for at least the following reasons. Applicants have amended independent claim 1 to recite, among other things:

"wherein the patient enclosing air tent is sized to enclose at least a portion of a single patient except a head region of the patient;"

The Kano et al. reference appears to be directed to an enclosure system that creates a suitable breathing environment for persons with allergies. The system described in the Kano et al. reference describes an enclosure that encloses the torso and the head region of the patient. (See Col. 4, lines 55-56, and Figs. 3 and 4).

From a review of the Kano et al. reference, the Applicants were unable to locate a description of wherein the patient enclosing air tent is sized to enclose at least a portion of a single patient except a head region of the patient, as recited by Applicants independent claim 1.

As such, each and every limitation of Applicants independent claim 1 is not shown by the Kano et al. reference. Accordingly, Applicants respectfully requests reconsideration and withdrawal of the §102 rejection of independent claim 1, as well as those claims which depend therefrom.

Independent claim 14

Applicants have amended independent claim 14 to recite, besides other things:

an air-cooling system to provide cold air to the interior of the patient-enclosing air tent, the cold air to affect a core temperature of the patient.

From a review of the Kano et al. reference, the Applicants were unable to locate a description of an air-cooling system to provide cold air to the interior of the patient-enclosing air tent, the cold air to affect a core

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temperature of the patient. As discussed above, the Kano et al. reference is directed to an enclosure system that creates a suitable breathing environment for persons with allergies. (See e.g., Col. 2, lines 8-12 of the Kano et al. reference).

As such, each and every limitation of Applicants independent claim 14 is not shown by the Kano et al. reference. Accordingly, Applicants respectfully request reconsideration and withdrawal of the §102 rejection of independent claim 14, as well as those claims which depend therefrom.

Independent claim 22

Applicants have amended independent claim 22 to recite, besides other things:

an air inlet connected to an air-cooling system for introducing cooled air into the patient enclosing air tent, the cooled air to affect a core temperature of the patient.

For the reasons provided above in connection with Applicants independent claim 14, Applicants respectfully submit that the Kano et al. reference does not describe an air inlet connected to an air-cooling system for introducing cooled air into the patient enclosing air tent, the cooled air to affect a core temperature of the patient.

As discussed above, the Kano et al. reference is directed to an enclosure system that creates a suitable breathing environment for persons with allergies. And, nowhere in the Kano et al. reference is there a description of the cooled air to affect a core temperature of the patient, as recited by Applicants independent claim 22.

As such, Applicants respectfully submit that each and every limitation of Applicants independent claim 22 is not shown in the Kano et al. reference. Accordingly, Applicants respectfully request reconsideration and withdrawal of the § 102 rejection of claim 22.

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Claims 1, 6, 14, 21, and 22 were rejected under 35 USC §102(b) as being anticipated by Deaton (U.S. Patent No. 3,710,791). The Applicants respectfully traverse the rejections as follows.

Independent claim 1

Applicants have amended independent claim 1 to recite besides other things:

“wherein the patient enclosing air tent is sized to enclose at least a portion of a single patient except a head portion of the patient.”

From a review of the Deaton reference, the Applicants were unable to locate a description of wherein the patient enclosing air tent is sized to enclose at least a portion of a single patient except a head portion of the patient, as recited by Applicants independent claim 1. The Deaton reference appears to describe an incubator for controlling a localized environment for treatment of a patient, such as an infant. (See Abstract, Fig. 1, and Col. 6, lines 34-37 of the Deaton reference). The incubator is configured to receive a trunk and head of the patient. (See Col. 3, lines 13-24 of the Deaton reference).

As such, each and every limitation of the Applicants independent claim 1 is not shown by the Deaton. Accordingly, Applicants respectfully request reconsideration and withdrawal of the §102 rejection of independent claim 1, as well as those claims which depend therefrom.

Independent claims 14, 21, and 22

Applicants independent claims 14 and 21 each recite, besides other things:

an air-cooling system to provide cold air to the interior of the patient-enclosing air tent, the cold air to affect a core temperature of the patient.

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And, Applicants independent claim 22 recites, besides other things:

an air inlet connected to an air-cooling system for introducing cooled air into the patient enclosing air tent, the cold air to affect a core temperature of the patient.

From a review of the Deaton reference, the Applicants were unable to locate a description of an air-cooling system to provide cold air to the interior of the patient-enclosing air tent, the cold air to affect a core temperature of the patient, as recited by Applicants independent claims 14 and 21. Nor were the Applicants able to locate a description of an air inlet connected to an air-cooling system for introducing cooled air into the patient enclosing air tent, the cold air to affect a core temperature of the patient, as recited by Applicants independent claim 22.

As discussed above, the Deaton reference appears to describe an oxygen tent for treatment of a patient.

As such, each and every limitation of Applicants independent claims 14, 21, and 22 is not shown by the Deaton reference. Accordingly, Applicants respectfully request reconsideration and withdrawal of the §102 rejection of independent claim 14, 21, and 22, as well as those claims which depend therefrom.

§103 Rejection of the Claims

Claim 23 was rejected under 35 USC §103(a) as being unpatentable over U.S. Patent No. 5,832,919 to Kano et al. in view of U.S. Patent No. 5,928,273 to Schmidt.

The office action asserts that Schmidt describes a coaxial hose having an inner passage to send air into the air tent and an outer coaxial passage to carry air from the air tent, as recited by Applicants independent claim 23. The office action looks to Kano et al. to describe the remaining elements of Applicants independent claim 23 and states that it would have been obvious

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to one of ordinary skill in the art to modify the device of Kano et al. as taught by Schmidt, to provide a coaxial hose as an alternative equivalent means of supplying and exhausting the air within the tent.

The Applicants traverse the rejection of independent claim 23 for at least the following reasons. First, the Applicants respectfully submit that, besides other things, there is no suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. There are three possible sources for a motivation to combine references: the nature of the problem to be solved, the teachings of the prior art, and the knowledge of persons of ordinary skill in the art. (See MPEP §2142).

With respect to the nature of the problem to be solved, the Kano et al. reference does not teach or suggest that there is a problem that would require a coaxial hose to perform the dual function of providing filtered air to a chamber and exhausting the air from the chamber. Indeed, the Kano et al. reference teaches away from a coaxial hose. For example, the Kano et al. reference describes supplying air at a top portion of the air chamber and exhausting air through exhaust ports at the bottom portion of the air chamber. (See Col. 4, lines 35-47 and Fig. 1, reference numerals 38 and 40 of the Kano et al. reference). Such a configuration (i.e., supply at first location, exhaust at second location) appears to be a desired configuration for the device in the Kano et al. reference for a number of reasons. (See, e.g., Col. 5, lines 32-35 of the Kano et al. reference). A coaxial type hose would not allow for providing a supply of air at a top portion of the air chamber and exhaustion of the air from a bottom portion of the air chamber, because the supply and exhaust would be provided from essentially the same location under a coaxial hose configuration.

In addition, Kano et al. and Schmidt are directed to different problems. Kano et al. looks to provide a hose that is connected to both a fan and filter to provide filtered air to a chamber from a top portion of the chamber. (See

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Col. 4, lines 35-43 of the Kano et al. reference). The Kano et al. reference also provides exhaust ports located at a bottom portion of the chamber to remove allergens forced to the bottom of the air chamber. (See Col. 5, lines 32-35 and Figure 1, reference numeral 40 of the Kano et al. reference). The Schmidt reference looks to provide a coaxial hose to avoid false connections of the forward and return lines. (See Col. 2, lines 3-8 of the Schmidt reference). As these are different problems, there would be no motivation to combine the documents to arrive at the subject matter recited in Applicants independent claim 23.

Moreover, Kano et al. does not teach or suggest that a coaxial hose is either necessary or desirable. So, one skilled in the art would not be motivated to look for a coaxial hose to add to the device provided in the Kano et al. reference. Moreover, because a coaxial hose structure has its complexities, and may be more expensive than a non-coaxial hose, it cannot be considered as an alternative to supplying and exhausting the air within the tent. If a coaxial hose did not offer any particular advantage, then the added expense alone would preclude one skilled in the art from looking to a coaxial hose.

Finally, the proposed modification suggested in the office action would render the Kano et al. reference being modified unsatisfactory for its intended purpose. For example, using the coaxial hose of the Schmidt reference with the air chamber of the Kano et al. reference for the purpose of providing an alternative equivalent means of supplying and exhausting the air within the tent would hinder the air chamber's ability to filter allergens from the air. (See Col. 5, lines 32-35 of the Kano et al. reference). A coaxial hose used with the air chamber of the Kano et al. reference would require the exhaust to exit at the same location in which air is supplied to the chamber (i.e., air supplied to the chamber at the top portion of the chamber) and thus, allergens that are forced to the bottom of the chamber due to the increased air pressure within the chamber would not be exhausted.

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Since each and every limitation of the Applicants independent claim 23 is not described, taught, and/or suggested in the above references, either independently or in combination, the references cannot support a §103 rejection for the same. Accordingly, in view of these remarks, reconsideration and withdrawal of the §103 rejection of Applicants independent claim 23 is respectfully requested.

Allowable Subject Matter

The Examiner states that claims 2-5, 7-13, and 16-20 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The Applicants thanks the Examiner for allowance of claims 2-5, 7-13, and 16-20.

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Conclusion

The Commissioner is authorized to charge any fees that may be required, or credit any overpayment made with this Office Action, to Deposit Account Number 500326.

In light of all the foregoing, believing that all things raised in Examiner's December 22, 2005 Office Action have been addressed, Applicants respectfully request reconsideration of the prior rejections and objections, as well as allowance of the claims and passage of the application to issue. If the Examiner would care to discuss any remaining matters by phone, Applicants invite the Examiner to contact the undersigned at 210.255.6788.

Respectfully submitted,



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